



DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Trademark and Trial Appeal Board (TTAB) Actions

ACTION: Proposed collection; comment request.

SUMMARY: The United States Patent and Trademark Office (USPTO) as required by the Paperwork Reduction Act of 1995 invites public comments about the proposed extension of an existing information collection: Trademark and Trial Appeal Board (TTAB) Actions.

DATES: Written comments must be submitted on or before [INSERT DATE 60 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]

ADDRESSES: You may submit comments by any of the following methods:

- *Email:* InformationCollection@uspto.gov. Include “0651–0040 comment” in the subject line of the message.
- *Federal Rulemaking Portal:* <http://www.regulations.gov>.

- *Mail:* Marcie Lovett, Records and Information Governance Division Director,
Office of the Chief Technology Officer, United States Patent and Trademark
Office, P.O. Box 1450, Alexandria, VA 22313–1450.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to LaToya Brown, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450; by telephone at 571–272-4283; or by email to LaToya.Brown@uspto.gov with “0651–0040 comment” in the subject line. Additional information about this collection is also available at <http://www.reginfo.gov> under “Information Collection Review.”

SUPPLEMENTARY INFORMATION:

I. Abstract

This collection of information is required by the Trademark Act of 1946, Sections 13, 14, and 20, 15 U.S.C. 1063, 1064, and 1070, respectively. Under the Trademark Act, any individual or entity that adopts a trademark or service mark to identify its goods or services may apply to federally register its mark. Section 14 of the Trademark Act allows individuals and entities to file a petition to cancel a registration of a mark, while Section 13 allows individuals and entities who believe that they would be damaged by the registration of a mark to file an opposition, or an extension of time to file an opposition, to the registration of a mark. Section 20 of the Trademark Act allows individuals and entities to file an appeal from any final decision of the Trademark Examining Attorney assigned to review an application for registration of a mark.

The USPTO administers the Trademark Act pursuant to 37 CFR part 2, which contains the various rules that govern the filing of petitions to cancel the registration of a mark, notices of opposition to the registration of a mark, extensions of time to file an opposition, appeals, and other submissions filed in connection with inter partes and ex parte proceedings. These petitions, notices, extensions, and additional papers are filed with the Trademark Trial and Appeal Board (TTAB), an administrative tribunal empowered to determine the right to register and subsequently determine the validity of a trademark.

The information in this collection must be submitted electronically through the Electronic System for Trademark Trials and Appeals (ESTTA). There are no paper forms associated with this collection. If applicants or entities wish to submit the petitions, notices, extensions, and additional papers in inter partes and ex parte cases, they must use the forms provided through ESTTA. This collection contains nine electronic forms.

The additional submissions filed in inter partes and ex parte proceedings must be filed electronically. Submissions filed in paper form are permitted only when ESTTA is unavailable due to technical problems, or when extraordinary circumstances are present.

The information in this collection is a matter of public record, and is used by the public for a variety of private business purposes related to establishing and enforcing trademark rights. This information is important to the public, as both common law trademark owners and federal trademark registrants must actively protect their own rights.

II. Method of Collection

The method of collection is by electronic submission through ESTTA when a party files a petition to cancel a trademark registration, an opposition to the registration of a trademark, a request to extend the time to file an opposition, a notice of appeal, or additional papers for inter partes and ex parte proceedings with the USPTO.

Submissions filed in paper form via mail or hand delivery are permitted only when ESTTA is unavailable due to technical problems, or when extraordinary circumstances are present. Certain submissions in paper must also be accompanied by a Petition to the Director. That petition is being added to collection 0651-0054 (Substantive Submissions).

III. Data

OMB Number: 0651–0040.

IC Instruments and Forms: PTO 2120, 2151, 2153, 2188, 2189, and 2190.

Type of Review: Extension of a Previously Existing Information Collection.

Affected Public: Businesses or other for-profits; not-for-profit institutions.

Estimated Number of Respondents: 78,000 responses per year. Of this total, the USPTO estimates that approximately 99% (77,220) will be filed electronically.

Estimated Time per Response: The USPTO estimates that it will take the public from 10 to 30 minutes (0.17 to 0.50 hours), depending on the complexity of the situation, to gather the necessary information, prepare the appropriate documents, and submit the information required for this collection.

Estimated Total Annual Respondent Burden Hours: 15,991.67 hours.

Estimated Total Annual Respondent (Hourly) Cost Burden: \$4,405,704.17. The USPTO estimates that it will take a combined effort by attorneys and paraprofessional/ paralegals to complete the requirements in this collection. The hourly rate for attorneys is \$410, while the hourly rate for paraprofessional/ paralegals is \$141. After calculating the average of these rates, the USPTO estimates that the hourly rate for completing the petitions, notices, requests, and other papers will be \$275.50. Using this hourly rate, the USPTO estimates that the total respondent cost burden for this collection will be \$4,405,704.17 per year.

#	Item	Estimated Time for Response (hours) (a)	Estimated Annual Responses (b)	Estimated Annual Burden Hours (a) x (b) / 60 = (c)	Rate (\$/hr)
1	Petition to Cancel	0.5	5	2.5	\$275.50
1	Electronic Petition to Cancel	0.5	1,895	947.5	\$275.50
2	Notice of Opposition	0.5	5	2.5	\$275.50
2	Electronic Notice of Opposition	0.5	6,195	3,097.5	\$275.50
3	Request for Extension of Time to File an Opposition	0.17	10	1.67	\$275.50
3	Electronic Request for Extension of Time to File an Opposition	0.17	18,900	3,150	\$275.50
4	Papers in Inter Partes Cases <ul style="list-style-type: none"> • Answers • Amendments to Pleadings • Amendment of Application or Registration During Proceeding • Motions (such as consent motions, motions to extend, motions to suspend, etc.) • Evidence • Briefs • Surrender of Registration • Abandonment of Application • Documents Related to Concurrent Use Applications • Notice of Intent to Appeal a TTAB decision 	0.17	750	125	\$275.50

4	Electronic Submissions in Inter Partes Cases <ul style="list-style-type: none"> • Answers • Amendments to Pleadings • Amendment of Application or Registration During Proceeding • Motions (such as consent motions, motions to extend, motions to suspend, etc.) • Evidence • Briefs • Surrender of Registration • Abandonment of Application • Documents Related to Concurrent Use Applications • Notice of Intent to Appeal a TTAB decision 	0.17	40,740	6,790	\$275.50
5	Notice of Appeal	0.25	5	1.25	\$275.50
5	Electronic Notice of Appeal	0.25	3,495	873.75	\$275.50
6	Miscellaneous Ex Parte Papers	0.17	5	0.83	\$275.50
6	Electronic Miscellaneous Ex Parte Submissions	0.17	5,995	999.17	\$275.50
Total	---	---	78,000	15,991.67	---

Estimated Total Annual (Non-hour) Respondent Cost Burden: \$5,744,000.00. There are no capital start-up, maintenance, or record keeping costs associated with this information collection. However, some filings in this collection have filing fees.

The petitions to cancel, the notices of opposition, the notices of appeal, the extensions of time to file an opposition, and the additional papers filed in inter partes and ex parte cases must be submitted to the USPTO electronically or served on other parties by email. Express or first-class mail through the United States Postal Service or hand delivery to the TTAB is only available under extraordinary circumstances.

There are also filing fees associated with this collection. This includes new fees as well as fees being returned from collection 0651-0072, which has been discontinued. These fees are listed in the accompanying table below.

#	Item	Estimated Annual Responses (a)	Filing fee (\$) (b)	Total Non-hour Cost Burden (\$) (a) x (b) = (c)
1	Petition to Cancel	5	\$500.00	\$2,500.00
1	Electronic Petition to Cancel	1,895	\$400.00	\$758,000.00
2	Notice of Opposition	5	\$500.00	\$2,500.00
2	Electronic Notice of Opposition	6,195	\$400.00	\$2,478,000.00
3	Ex Parte Appeal to the Trademark Trial and Appeal Board Filed on Paper	5	\$300.00	\$1,500.00
3	Electronic Ex Parte Appeal to the Trademark Trial and Appeal Board	3,495	\$200.00	\$699,000.00
4	Request for Extension of Time to File an Opposition under §2.102(c)(3)	5	\$200.00	\$1,000.00
4	Electronic Request for Extension of Time to File an Opposition under §2.102(c)(3)	9,600	\$100.00	\$960,000.00
5	Request for Extension of Time to File an Opposition under §2.102(c)(1)(ii) or (c)(2)	5	\$300.00	\$1,500.00
5	Electronic Request for Extension of Time to File an Opposition §2.102(c)(1)(ii) or (c)(2)	4,200	\$200.00	\$840,000.00
Total	---	25,410	---	\$5,744,000.00

Therefore, the USPTO estimates that the total annual (non-hour) cost burden for this collection, in the form of filing fees, is \$5,744,000.00 per year.

IV. Request for Comments

Comments are invited on:

- (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;
- (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information;
- (c) ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) ways to minimize the burden of the collection of information on respondents, e.g., the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: March 10, 2017.

Marcie Lovett,

Records and Information Governance Division Director, OCTO

United States Patent and Trademark Office.

BILLING CODE 1650-15-P

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